

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMIRAH MERCER, :
Plaintiff, :
: 22 Civ. 6322 (LGS)
-against- :
: ORDER
VIACOMCBS/PARAMOUNT, :
Defendant. :
: ----- X

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on October 2, 2023, Plaintiff filed a Second Amended Complaint (“SAC”) without first seeking leave to do so;

WHEREAS, Federal Rule of Civil Procedure 15(a)(2) states that, if more than 21 days have elapsed since service of a complaint, “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Plaintiff did not seek leave to file the SAC and the opposing party did not provide its written consent for her to do so;

WHEREAS, Plaintiff’s filing of the SAC is construed as a request for leave to amend the pleadings. It is hereby

ORDERED that Plaintiff’s request is GRANTED. It is further

ORDERED that Defendant’s motion to dismiss the First Amended Complaint is DENIED as moot. By October 10, 2023, Defendant shall file a letter stating whether it intends to answer the SAC or move to dismiss it. If Defendant opts to move to dismiss the SAC, a new briefing schedule for that motion will be issued.

The Clerk of Court is respectfully directed to close the motion at Dkt. 43 and to mail a copy of this order to Plaintiff.

Dated: October 4, 2023
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE